

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATES OF NEW YORK, CALIFORNIA,
CONNECTICUT, MARYLAND,
NEW JERSEY, OREGON, RHODE ISLAND,
VERMONT, and WASHINGTON;
COMMONWEALTH OF MASSACHUSETTS; and
the DISTRICT OF COLUMBIA,

Plaintiffs,

Case No. 1:18-cv-1030 (JPO)

v.

ANDREW WHEELER, as Administrator of the
United States Environmental Protection Agency;
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY; *et al.*,

Defendants.

**THE STATES' RESPONSE TO DEFENDANTS' NOTICE OF ACTIVITY
IN RELATED CASE AND SUGGESTION OF MOOTNESS**

Plaintiffs, the States of New York, California, Connecticut, Maryland, New Jersey, Oregon, Rhode Island, Vermont, and Washington, the Commonwealth of Massachusetts, and the District of Columbia (the States), each represented by its Attorney General, respond to the suggestion of mootness of defendants Environmental Protection Agency, Army Corps of Engineers, and their officers (collectively, Agencies) as follows:

The Agencies state that: (i) federal district courts in South Carolina and Washington State have issued judgments vacating and/or enjoining the Agencies' rule suspending the Clean Water Rule for two years (Suspension Rule), and (ii) they have obtained orders from the Fourth and Ninth circuits, respectively, dismissing

their appeals of those judgments, and that no other party in those cases is maintaining an appeal.

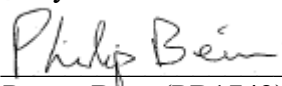
In light of those developments, the States acknowledge that the relief sought by them in this action has been obtained through resolution of the South Carolina and Washington cases. Accordingly, the States do not object to dismissal of this action provided that the dismissal be made *without prejudice*, to ensure that they can protect themselves from the possibility that future events or litigation could undermine the relief provided in those cases.

Dated: March 18, 2019
Albany, New York

Respectfully submitted,

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